

ORIGINAL
RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

AUG 12 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket No. 98-198
Table of Allotments)	RM-9304, RM-9492, RM-9524,
FM Broadcast Stations)	RM-9547, RM-9548, RM-9690
(Cross Plains, Texas et al.))	

To: Chief, Allocations Branch
 Policy and Rules Division
 Mass Media Bureau

**OPPOSITION TO REQUEST OF ROLLING PLAINS BROADCASTING CORP.
 FOR EXTENSION OF TIME TO COMMENT**

1. Hispanic Broadcasting Corporation (formerly Heftel Broadcasting Corporation) ("Hispanic"), Metro Broadcasters-Texas, Inc. ("Metro"), Jerry Snyder and Associates, Inc. ("JSA") and Hunt Broadcasting, Inc. ("Hunt") (collectively "Joint Parties"), by their respective counsel, hereby submit their opposition to the request of Rolling Plains Broadcasting Corp. ("Rolling Plains") for an extension of time to comment in the above-captioned proceeding. The request is procedurally and substantively defective and should be dismissed. The Joint Parties will not respond to the comments made by Rolling Plains except to the extent it requests additional time to file a more extensive pleading.

2. Although Rolling Plains captioned its pleading "Comments," the pleading is primarily a request for an extension of time. As Rolling Plains correctly notes, Section 1.415 of the Commission's Rules governs the procedures for filing comments and reply comments in rule making proceedings. Requests for additional time are contemplated under Section 1.415, and are governed by the time limits of Section 1.46(b). See Section 1.415(e), 47 C.F.R. § 1.415(e). Section 1.46(b),

in turn, states that "Motions for extension of time . . . shall be filed at least 7 days before the filing date." 47 C.F.R. § 1.46(b). The filing date in this case was August 5, 1999. *See* Public Notice, Report No. 2346 (Jul 21, 1999), *corrected* (Jul. 29, 1999). Since Rolling Plains did not file its request until August 5, 1999, the request was seven days late. It was not accompanied by a request for waiver of the Commission's rules, nor did it give any reason for being late-filed. The Commission has no choice but to dismiss the request as untimely. *See also Julian, California*, 50 Fed. Reg. 16704 (1985).

3. Even if the Commission were to entertain the request, which under its rules it cannot, the request should be denied. As licensee of KVRP-FM, Haskell, Texas, Rolling Plains is affected by only one proposal in this proceeding, that of the Joint Parties, and that proposal involves only four communities, in addition to Haskell.¹ As the Joint Parties recently noted in their Second Reply Comments in this proceeding, their proposal is completely separate from any other proposal in this proceeding. Moreover, Rolling Plains' claim that 15 days is inadequate time to respond is disingenuous at best. Rolling Plains was served with a copy of the Joint Parties' proposal on December 21, 1998, and the Commission's Public Notice contains no additional matters that would require additional consideration.² So Rolling Plains has actually had more than seven months time to consider its response. In addition, the Joint Parties have requested that Rolling Plains be issued an Order to Show Cause, and when that Order issues Rolling Plains will be given an adequate time

1. The communities are Jacksboro, Snyder (vacant) and Eldorado, Texas (vacant); and Ardmore, Oklahoma.

2. In this regard, it is noteworthy that none of the other parties affected by any of the five counterproposals have asked for additional time to file a reply.

to state its objections to the channel change. Hunt, one of the Joint Parties, has restated that it will reimburse Rolling Plains for its reasonable costs in changing channels in accordance with the Commission's rules. *See Circleville, Ohio*, 8 FCC 2d 159 (1967).

CONCLUSION

The Commission should dismiss Rolling Plains' request for an extension of time as violating Section 1.46(b), and should forthwith issue an Order to Show Cause why Rolling Plains should not be required to change from Channel 238C1 to Channel 246C1.

Respectfully submitted,

METRO BROADCASTERS-TEXAS, INC.

By: Harry C. Martin (by HNL)
Harry C. Martin
Fletcher Heald & Hildreth, PLC
1300 North 17th Street
11th Floor
Rosslyn, VA 22209-3801
(703) 812-0415

Its Counsel

JERRY SNYDER AND ASSOCIATES, INC.

By: Robert W. Healy (by HNL)
Robert W. Healy
Smithwick & Belendiuk, P.C.
1990 M Street, NW
Suite 510
Washington, DC 20036
(202) 785-2800

Its Counsel

August 12, 1999

Respectfully submitted,

HUNT BROADCASTING, INC.

By: Mark N. Lipp
Mark N. Lipp
J. Thomas Nolan
Shook, Hardy & Bacon
600 14th Street, NW
Suite 800
Washington, DC 20005-0004
(202) 783-8400

Its Counsel

HISPANIC BROADCASTING
CORPORATION

By: Roy R. Russo (by HNL)
Roy R. Russo
Lawrence N. Cohn
Cohn & Marks
1920 N Street, NW
Suite 300
Washington, DC 20036-1622
(202) 452-4830

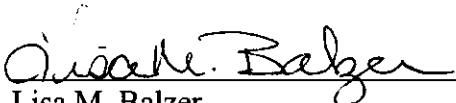
Its Counsel

CERTIFICATE OF SERVICE

I, Lisa M. Balzer, do hereby certify that on this 12th day of August, 1999, copies of the foregoing **Opposition to Request of Rolling Plains Broadcasting Corp. for Extension of Time of Comment** were mailed, postage prepaid, to the following:

*	Ms. Kathleen Scheuerle Allocations Branch Mass Media Bureau Federal Communications Commission 445 12th Street, SW Washington, D.C. 20554	Rolling Plains Broadcasting Corp. Box 1118 1406 N. First Haskell, TX 79521 (Station KVRP, Haskell, Texas)
*	Robert Hayne, Esq. Allocations Branch Mass Media Bureau Federal Communications Commission 445 12th Street, NW Washington, DC 20554	Delbert Foree 2800 34th Street Snyder, TX 79549 (Applicant at Snyder, Texas)
	Erwin G. Krasnow, Esq. Verner, Liipfert, Bernard, McPherson and Hand 901 15th Street, NW Washington, DC 20005-2301 (Counsel to Graham Newspapers, Inc.)	Frances Beane 7912 Joliet Lubbock, TX 79423 (Applicant at Snyder, Texas)
	John F. Garziglia, Esq. Patricia M. Chuh, Esq. Pepper & Corazzini, L.L.P. 1775 K Street, NW Suite 200 Washington, DC 20006 (Counsel to K95.5, Inc.)	Highland Broadcasters P.O. Box 628 Lake Havasu City, AZ 86405 (Applicant at Snyder, Texas)
	Jean Hill ALALATEX 6101 Bayou Road Mobile, AL 36605 (Petitioner for Cross Plains, TX)	Chuckie Broadcasting Co. Station KKAJ Mr. Kenneth Taishoff, President P.O. Box 1609 Ardmore, OK 73402
		Robert J. Buenzle 12110 Sunset Hills Road Suite 450 Reston, VA 20190-3223 (Counsel to Sonoma Media Corp.)

Henry E. Crawford
1150 Connecticut Ave, NW
Suite 900
Washington, D.C. 20036-4192
(Counsel to Wagonwheel Broadcasting of Santa Anna)



Lisa M. Balzer